

Minutes of the Meeting of
Louisiana State Board of Architectural Examiners
Baton Rouge, Louisiana
June 07, 2013
10:00 AM

Attending Creed Brierre, President presiding
 Allen Bacqué
 Ronald Blicht
 J. David Brinson
 John Cardone, Jr.
 Richard LeBlanc
 Robert W. McKinney
 Teeny Simmons, Executive Director
 Paul H. Spaht, Board Attorney
 Robert Eddleman, Board Investigator

Call to Order

1. The meeting was called to order by the President.

Minutes Approved

2. The minutes from the meeting held March 01, 2012, were approved as written.

IDP Report

3. Ms. Marsha Cuddeback, IDP State Coordinator, was unable to attend but filed the following report:

LOUISIANA IS REPRESENTED IN THE INAUGURAL INTERN THINK TANK

In December 2012, NCARB facilitated the first *Intern Think Tank* to “analyze the current program’s real-world implementation and effectiveness, explore blue-sky ideas related to internship, and share ideas with the Council’s leadership.” Twelve interns out of 197 applications were selected from across the country to participate in this inaugural event, including Sarah Bowers, a recent graduate from the LSU School of Architecture. The *Intern Think Tank* was a two-day event, held in Washington, DC. Participants met again via conference call in January 2013 and will submit their findings to the Council’s Internship Committee and the Board of Directors. We are very proud to have Sarah represent Louisiana.

“Having the opportunity to meet with 11 other interns from across the country was an invaluable experience for me and for NCARB. This weekend was about collaborating with others with similar experience levels and discussing how this program can be a better experience. As young professionals we view the field of architecture with fresh eyes, and have many ideas about the future of the IDP. We had the chance to really hash out many scenarios and discuss real possibilities and opportunities. This weekend gave NCARB insight from interns and their challenges with the IDP process today. This weekend also gave me a better understanding of NCARB, their purpose, and how committed they are to the profession and everyone in the process.” ~S. Bowers

For more information and updates on NCARB’s *Intern Think Tank*, please visit <http://ncarb.org>.

1. NEW NCARB VIDEO SERIES HELPS DEMYSTIFY LICENSURE PROCESS

“A new series of five short videos, *Destination: Architect*, maps out key licensure requirements and highlights what emerging professionals need to know. The video series can be found on the [NCARB YouTube channel](#) and on [NCARB.org](#)—and is a great resource to

share with your interns." These short videos include important information about the path to licensure and certification.

2. ARE CANDIDATES TAKE NOTE

The 2013 blackout begins on July 1, 2013. NCARB's new consultant, Alpine Testing Solutions, Inc. will be taking over content and candidate management for the ARE. There will be an estimated eight-week blackout for ARE candidates to facilitate the migration of data. No exams may be scheduled or administered during this blackout. Be proactive and prepare for the blackout. Learn more about how it affects you. Visit <http://www.ncarb.org/ARE/ARE-Portal/ARE-Portal-FAQs>.

3. NCARB AWARD FOR THE INTEGRATION OF PRACTICE AND EDUCATION

The deadline for the new NCARB Award for the integration of practice and education is close at hand. Proposals are due no later than September 24, 2013. The NCARB AWARD has replaced the recently retired NCARB Prize and NCARB Grant programs. Faculty members in NAAB accredited institutions are eligible to apply and NCARB anticipates awarding up to \$75,000 to no more than three proposals. For more information visit <http://www.ncarb.org/Studying-Architecture/NCARB-Award.aspx>.

4. QUESTIONS?

If you are enrolled in one of Louisiana's 5 Schools of Architecture, be sure to contact your IDP Educator Coordinator. He or she can answer your questions, assist you with establishing your NCARB record, and serve as an informal mentor as you begin the path toward licensure. More questions? Contact Louisiana's State Intern Development Program Coordinator via email at mcuddeb@lsu.edu.

Executive Director's
Report

4. The Executive Director reported the following:

- A. Began processing firm renewals.
- B. Preparing summer newsletter.
- C. Review and discussions with Mr. Spaht on suggested wording for firm registration.
- D. Several emails and discussions with Linda Burch (FMO) relating to Rules 1305 and 1307 (sealing and stamping plans/architect's responsibility for compliance).
- E. Attendance:
 - 1. March 7-10 SC/NCARB Regional (Charleston, SC).
 - 2. April 4, 2013 Arch/Eng meeting (Blitch/Brinson).
 - 3. May 22, 2013 meeting with Ray Stringer (ARMKO) and Rodney Ruebsahm.
- F. As in the past, the Executive Director was approved for attendance at the IDP Coordinators Conference/AIALA Design Conference (both in July, 2013) and SC/NCARB Board Member/Educator meeting in March, 2014.

5. Mr. Spaht presented the following legal matters:

- A. Rule § 1303 (Architect's Seal or Stamp) – For informational purposes, the board reviewed this recently adopted rule published on March 20, 2013, in the Louisiana Register. This new rule provides for the shape, size, and design of the architect's seal.
- B. Rules §§ 1905 and 1907 (Aggravating and Mitigating Circumstances and General Disciplinary Guidelines) – For informational purposes, the board reviewed these recently adopted rules published on March 20, 2013, in the Louisiana Register. These new rules provide as to the normal discipline which will be imposed by the board for particular violations absent aggravating or mitigating circumstances, identify aggravating and mitigating circumstances which the board may consider when imposing discipline, and describe circumstances which the board will not consider when imposing discipline.
- C. Rules §§ 1103 and 1109 (Military-trained Architects and Architect Spouses of Military Personnel) – The board reviewed a NOI published on May 20, 2013, in the Louisiana Register proposing to amend Rule § 1103 (Individuals Registered in Other States) and adopt Rule § 1109 (Military-trained Architects and Architect Spouses of Military Personnel). These proposed rules seek to implement the provisions of Act 276 of 2012 (R.S. 37:3651) and provide a procedure for the licensing of military-trained applicants and spouses of military personnel. The proposed rules were reviewed for informational purposes only, as insufficient time from publication had expired for any adoption of such rules. The proposed rules will be considered for adoption at the board's next meeting.
- D. Rule § 1539.A (Architect Emeritus) – The board reviewed a NOI published on May 20, 2013, in the Louisiana Register regarding the title which an architect who has received emeritus status from the board should use. The NOI was reviewed for informational purposes, as insufficient time from publication had expired for any adoption of the proposed rule. The proposed rule will be considered for adoption at the next meeting.
- E. Rule regulating architectural firms – The board reviewed a draft of proposed rules regulating architectural firms. The proposed rules are modeled after the rules of South Carolina regulating architectural firms in that state. The proposed rules will be reviewed again at the board's next meeting. In the meanwhile, the executive director will obtain information concerning the fees charged by other states for registering architectural firms. In addition, the board attorney will amend the language of proposed Rule § 1705.L (which concerns issuing certificates of authority to members of a joint venture) and Rule § 1705.N (which concerns issuing a certificate of authority to a sole proprietorship d/b/a under a name other than the name of the licensed architect).
- F. Repeating presentations of continuing education – The board reviewed the email of Lloyd Kaufman of NCARB dated March 12, 2013, such email responding to the board's question regarding any policies or recommendations of NCARB or AIA before a continuing education tour or presentation may be repeated. Mr. Kaufman advised that NCARB has no policy or recommendation on this issue. He further advised that AIA recently revised their guidelines and reduced the time period from

three years to one year before an architect can repeat a tour or presentation. On motion by Mr. Brierre, seconded by Mr. McKinney, the board adopted as a policy that registrants cannot take the same continuing education course or presentation within twelve (12) months of completion. The board will publish this policy in its next newsletter.

- G. ARMKO Industries/Ray Stringer/Rodney Ruebsahm – H. Ray Stringer and Rodney Ruebsahm of ARMKO Industries appeared to discuss the issues raised in Mr. Stringer's letter dated May 28, 2013. Prior to these appearances, the board reviewed such letter; the board's previous letter dated March 4, 2013 to Mr. Stringer/ARMKO; Mr. Stringer's email dated February 28, 2013; a sample ARMKO "either/or" proposal to a client; a sample AIA document C401-2007; a sample ARMKO invoice; Texas Rule 1.145 (Conflict of Interest); LSBAE Rule § 1901.B (Conflict of Interest); and LAPELS Rule § 2507 (Conflict of Interest).

In its letter dated March 4, 2013, the board responded to the "first line of questions" of Mr. Stringer/ARMKO. In his letter dated May 28, 2013, Mr. Stringer/ARMKO asked additional questions.

ARMKO is capable of distributing material (two different roof cap sheets) in the construction market. In Texas, ARMKO is allowed to provide "either/or" proposals to its clients which allows ARMKO to offer a choice to "either" provide a fee based consulting "or" distribute the roof membrane material for the project after the bids are opened. ARMKO does not provide both, that is, ARMKO does not provide both fee-based consulting or distribute material on the same project.

An outline of how ARMKO provides this additional service is contained in its letter dated May 28, 2013. In a nutshell, ARMKO submits an "either/or" proposal to the client disclosing how it will be compensated, i.e., either through fee-based consulting or through distribution. If the client decides that it wants to proceed with the material distributed by ARMKO, ARMKO waives all consulting fees and continues as the technical representative for the ARMKO distributed material.

Texas Rule § 1.145(c) provides:

An architect shall not solicit or accept, directly or indirectly, any financial or other valuable consideration, material favor, or other benefit of any substantial nature from any supplier of materials or equipment or from any contractor or any consultant in connection with any project on which the Architect is performing or has contracted to perform architectural services *unless the circumstances are fully disclosed in writing to all parties.*

(Emphasis added.)

ARMKO asks if it may use its "either/or" proposal in Louisiana. ARMKO recognizes that the Louisiana rules on conflict of interest are different from Texas. Specifically, LSBAE Rule § 1901.B.3 provides:

An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products.

COMMENTARY: This rule appears in most of the existing state standards. It is absolute and does not provide for waiver by agreement.

After discussion, the board concluded that in Louisiana an architect may not specify its own product for a project, even if full disclosure is made to all parties. Doing so would violate LSBAE Rule § 1901.B.3. Accordingly, if ARMKO becomes the architect for a project in Louisiana, it may not use its “either/or” proposal.

ARMKO may serve as a consultant to architects on projects in Louisiana. As a consultant to the architect of record, ARMKO may use an “either/or” proposal described *supra*, provided full disclosure is made to all interested parties.

The opinion of the board was explained to Mr. Stringer and Mr. Ruebsahm. This opinion will be confirmed in writing.

- H. Don Zeringue/Design Responsibility – Don Zeringue provided to the board, and the board reviewed, examples of engineers and architects attempting to “transfer” design responsibility from the engineer or architect to a fire alarm contractor or subcontractor. In the opinion of Mr. Zeringue, this attempted “transfer” of responsibility is impermissible, and he asks that the board assist him in addressing this issue. After discussion, the board agreed that this purported “transfer” of responsibility is impermissible, and the board will so advise Mr. Zeringue. Further, in a future newsletter the board will address this problem through case studies.
- I. Linda Burch/Fire Protection Design – The board reviewed an email dated May 31, 2013, and the related materials provided to the board by Linda Burch of the OFM. Such materials parallel the examples sent to the board by Mr. Zeringue. Ms. Burch opined that the attempt by some engineers and architects to avoid or shift responsibility for the final fire protection system design is a violation of Rule § 1307. The board agreed. As set forth in Rule § 1307, the architect or professional engineer, as the case may be, is responsible for compliance with all laws or ordinances relating to the designs of projects with which he or she may be engaged. Again, this will be addressed in a future newsletter.
- J. Promotional Materials/Use of LLC – The board reviewed an email dated April 4, 2013, from Mona Pipkins, which was forwarded to the board by Kathy Lachney. The email asked whether “LLC” or “L.L.C.” must be used on promotional materials such as t-shirts, caps, cups, and other such items. The board observed that a common sense approach should be used. On motion by Mr. Blitch, seconded by Mr. Cardone, the use of “LLC” or “L.L.C.” is not required on promotional items such as t-shirts, caps, cups, etc. At the same time, “LLC” or “L.L.C.” should be used on promotional items such as stationary, business cards, signs, firm brochures, and firm listings. The executive director will so advise Ms. Pipkins.
- K. Professional Architectural Corporation – The board reviewed an email dated May 23, 2013 from Barbara A. Szopinski re: a professional architectural corporation (Cedar Street Architecture) which would like to get licensed in Louisiana. Ms. Szopinski advises that an ESOP (Toltz, King, Duvall, Anderson and Associates, Incorporated Employee Stock Ownership Plan dated January 1, 1994) owns 100% of a business corporation (Toltz, King, Duvall, Anderson and Associates, Incorporated) which wholly owns Cedar Street Architecture. The sole officer and director of Cedar Street

Architecture is a Louisiana licensed architect. Cedar Street Architecture would like to get licensed in Louisiana to do consulting and design work for clients in Louisiana.

The Louisiana Professional Architectural Corporations Law, specifically La. R.S. 12:1090.B, provides that a majority of the outstanding shares of a professional architectural corporation shall be held by one or more natural persons duly licensed to practice architecture in Louisiana, holding his shares in his own right. La. R.S. 12:1090.C further provides that the requirements of R.S. 12:1090.B may be met if such shares are held or owned by a holding company, a majority of the stock of which is owned by one or more natural persons duly licensed to practice architecture in this state, and the holding company is the direct owner of the stock of such professional architectural corporation. From the information provided, Cedar Street Architecture does not meet the requirements of either La. R.S. 12:1090.B or La. R.S. 12:1090.C, and thus it may not receive a license or certificate of authority to practice architecture in Louisiana. Ms. Simmons will so advise Ms. Szopinski.

- L. Joint Venture – By emails dated May 29 and 30, 2013, Cat Foy of Grace & Hebert Architects advised that her firm is considering a joint venture with a limited partnership from Dallas, TX. Ms. Foy asks: will the limited partnership need to register with the board.

The executive director had previously responded to Ms. Foy that the board does not presently register either joint ventures or limited partnerships, although the board is considering registering all architectural firms (including limited partnerships) in the future. The executive director further advised that if an unregistered firm is participating in a joint venture with a Louisiana registered firm, the unregistered firm has to make sure everything they do or advertise in Louisiana will be in connection with the registered firm. At its meeting, the board reviewed the executive director's response, and it concluded that the response was appropriate. The executive director will so advise Ms. Foy.

- M. Educator Practitioner Conference – The board reviewed an email dated April 30, 2013, from Jenny Wilkinson of the Southern Conference of NCARB concerning interest in hosting the spring 2014 Educator Practitioner Conference. The executive director had forwarded Ms. Wilkinson's email to Marsha Cuddeback and Mr. McKinney with necessary contact information. These emails were reviewed for informational purposes only, and no further board action was considered necessary.

- N. Generating Hope/W. Geoff Gjertson – The board reviewed a copy of an undated letter from W. Geoff Gjertson, Professor of Architecture, ULL School of Architecture and Design, concerning the BeauSoleil Louisiana Solar Home project. The letter, which was received by the board on April 17, 2013, advised that Professor Gjertson is writing a book about the "who, how, why and what" of the project which is to be released in the fall of 2014 on the fifth anniversary of the 2009 Solar Decathlon. Professor Gjertson asks that the board become a sponsor of the book (Generating Hope: How to Build a Solar Home – Stories of the BeauSoleil Louisiana Solar Home) and contribute \$1,000 to its cost.

The board reviewed Attorney General Opinion 10-0304 dated June 15, 2011. In view of this opinion, the board concluded that it cannot grant Professor Gjertson's request. Ms. Simmons will so advise Professor Gjertson.

- O. Proposed changes to IDP – Mr. McKinney reported on two proposed changes to IDP, such changes relating to the employment duration and eligibility requirements. Detailed descriptions of the proposed changes were reviewed. Mr. McKinney's report, and this information, was provided for informational purposes only, and no further board action was considered necessary.
- P. IDP Coordinator's' Conference – Mr. Blitch reported that the IDP Coordinators' Conference will be hosted by NCARB, with support from AIA, on July 25 – 27, 2013 in Miami, FL. Mr. Blitch's report, and information concerning the upcoming conference, was provided for informational purposes only, and no board action was deemed necessary.
- Q. Enforcement Report – Mr. Eddleman presented a written Enforcement Report for the period March 1, 2013 - June 7, 2013. As set forth more fully in this report, the CRC at its March 1, 2013 meeting authorized the issuance of two (2) consent orders. Further, since the March meeting, four (4) cases have been opened, and at the direction of the CRC five (5) cases were closed. Nine (9) cases were referred to the CRC for review; eight (8) cases of unlicensed practice, and one (1) case relative to the plan stamping.
- R. CRC Matters - Mr. Eddleman presented the following CRC matters:

Case 2011-3– Jennifer Taylor – Mr. Eddleman reported on an unlicensed architect that submitted design drawings to the Fire Marshal's Office (FMO) for review. Drawings contained respondent's firm name Taylored Environments, LLC, which was unlicensed. Investigation disclosed that Jennifer Taylor had prepared the design and was also unlicensed. The respondent has signed and returned the proposed Consent Order offered by the CRC. After discussion, the Board unanimously approved the motion made by Mr. McKinney, seconded by Mr. LeBlanc, to approve the signed Consent Order.

Case # 2012-4 – Taylored Environments, LLC – Mr. Eddleman reported on an unlicensed architectural firm that submitted design drawings to the Fire Marshal's Office (FMO) for review. . The respondent has signed and returned the proposed Consent Order offered by the CRC. After discussion, the Board unanimously approved the motion made by Mr. McKinney, seconded by Mr. LeBlanc, to approve the signed Consent Order.


Case # 2011-13 – Williams & Williams Architecture, LLC – Mr. Eddleman reported on an unlicensed architectural firm that submitted an application for firm licensure who admitted to practicing and/or offering to practice architecture prior to obtaining licensure. The respondent has signed and returned the proposed Consent Order offered by the CRC. After discussion, the Board unanimously approved a motion made by Mr. LeBlanc, seconded by Mr. McKinney, to approve the signed Consent Order.

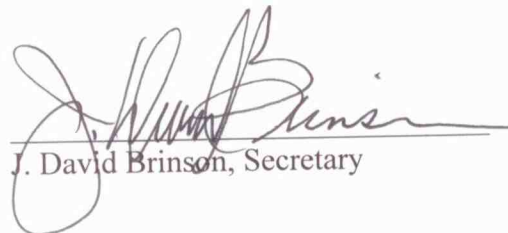
Case # 2012-7 – John Wettermark – Mr. Eddleman reported on an unlicensed architect who admitted to practicing and/or offering to practice architecture during the period that his license was in an expired status. The respondent has signed and returned the proposed Consent Order offered by the CRC. After discussion, the Board unanimously approved a motion made by Mr. LeBlanc, seconded by Mr. Bacque, to approve the signed Consent Order.

Budget Report

- 6.. The April, 2013 budget report was reviewed.
7. After reviewing and discussing the 2013-2014 Budget, it was approved as presented.
8. Future meeting dates:
Friday, September 20
Friday, December 13

9/20/2013
Date


Creed W. Brierre, President


J. David Brinson, Secretary